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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

JUAN MENDOZA,
Plaintiff,

v.

JEFFERY CARL, and TIM MUELLER,
Sheriff of Linn county, Oregon
Defendant.

Case no.

11-0148-AA

COMPLAINT

[Civil Rights, False Arrest and
False Imprisonment]

Jury Trial Requested

Plaintiff alleges:

NATURE OF CASE

1. Plaintiff seeks damages on claims are based on 42 USC 1983 and State law claims for False Arrest and False Imprisonment.

JURISDICTION AND VENUE

2. This court has jurisdiction for Plaintiff's Federal Constitutional rights under 28 USC 1331 and 1343.

3. This court has pendant jurisdiction over Plaintiff's state law claims 28 USC 1367.

4. The actions giving rise to this complaint took place in Linn County, Oregon which is within this District and venue is vested in this court by virtue of 28 USC 1391[b].

PARTIES

5. Plaintiff is a resident of Linn County, Oregon and of Latin heritage.

6. Defendant Tim Mueller is the Sheriff of Linn county, Oregon and Defendant Jeffery Carl is a deputy sheriff of Linn County, Oregon and at all times mentioned herein was acting under color of his position as a deputy sheriff.

FACTUAL ALLEGATIONS

7. At all times material herein, Plaintiff was the owner of and residing on real property outside the city limits of Sweet Home, Oregon on which there was a private road that provided access to three neighboring properties.

8. Plaintiff's neighbors because of his race sought to intimidate him by making numerous unfounded complaints about Plaintiff to the Linn County sheriff's department all of which was known by Defendant

9. On or about September 15, 2009, Plaintiff was engaged in target practice on his private property firing into a target erected against an earthen embankment and outside the view of his neighbors and/or passersby.

10. Defendant's neighbors who have expressed a desire to get rid to Plaintiff and run that " Mexican Nigger" out of the community called the Linn County sheriff's department and reported that Plaintiff was engaged in target practice.

First Claim – 42 USC 1983 **Violation of 4th Amendment: Search and Seizure**

11. Plaintiff realleges paragraphs 1 thru 10 inclusive.

12. On or about September 15, 2009, Defendant Carl, without a warrant, came on Plaintiff's private property uninvited, without Plaintiff's consent and against his wishes, pointed his service weapon at Plaintiff, Plaintiff complied with all commands and removed his weapon from his pants with his left hand by the thumb and forefinger and laid it on the ground in front of Defendant Carl. The weapon was retrieved by another officer and Defendant Carl handcuffed and searched the Plaintiff. Thereafter, Defendant Carl took Plaintiff in handcuffs to the back of his property where he examined the target at which Plaintiff had been shooting, determined that it complied with all safety requirements and thereafter removed the handcuffs from Plaintiff, discussed gun safety with Plaintiff and left. No charges were ever filed against Plaintiff.

13. Plaintiff had not committed any crime and Defendant Carl did not have probable cause to believe that Plaintiff was engaged in any illegal activity.

14. The aforementioned conduct of Defendant Carl was part of a pattern of conduct of the members of the Linn county Sheriff's department of responding to unfounded complaints about Plaintiff and his family and failing to take any action against his neighbors when they trespass on his property and commit other offenses against him and his family and treating him differently than it treats his neighbors because of his race

15. Plaintiff is entitled to be free from unlawful searches and seizures of his person pursuant to the 4th and 14th Amendments to the United States Constitution.

16. By reason of the foregoing, Plaintiff was deprived of his freedom of

movement, suffered extreme fear, anger, humiliation, embarrassment, emotional upset, anxiety, stress, helplessness and depression and has been damaged in the sum of \$150,000.00 non economic damages.

17. The aforementioned conduct was intentional, a violation of societal interests and punitive damages in the sum of \$150,000.00 should be assessed against the Defendants.

18. Pursuant to 42 U.S.C. § 1988 Plaintiff is entitled to recover his reasonable attorney fees.

Second claim – False arrest

19. Plaintiff realleges paragraphs 1 thru 10 inclusive and 12, thru 16 inclusive.

20. The aforementioned conduct of Defendants constituted an arrest of Plaintiff without probable cause.

21. Plaintiff sent timely notice of his tort claim.

Third Claim – False Imprisonment

22. Plaintiff realleges paragraphs 1 thru 10, inclusive, 12 thru 16 inclusive and 21.

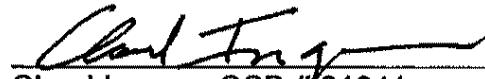
23 By reason of the foregoing, Plaintiff was deprived of his freedom and imprisoned without any basis in fact or law.

Wherefore Plaintiff prays for judgment against the Defendants as follows:

First Claim: A money award of \$150,000.00 noneconomic damages and \$150,000.00 punitive damages plus his reasonable attorney fees herein.

Second Claim: A money award of \$150,000.00 noneconomic damages.

Third Claim: A money award of \$150,000.00 noneconomic damages.

A handwritten signature in black ink, appearing to read "Claud Ingram", is written over a horizontal line.

Claud Ingram OSB #61041
Attorney for Plaintiff